

## **REMARKS**

Claims 1-10, 12-21, 23-75, 77, 79, and 80 were previously pending in the application. Claims 1-10, 12, 13, 16-18, 20, 21, 26, 28, 45-48, 75, 77, 79, and 80 are rejected to. Claims 15, 27, and 29-44 are objected to. Claim 1 has been amended. No claims have been cancelled or added by way of this communication. Favorable reconsideration and allowance of the application are respectfully requested.

### **I. Objection to the Drawings**

The Office Action asserts that Figs. 5 and 6 of the present application should be designated by a “Prior Art” legend because only that which is old is said to be illustrated. Applicant reviewed the specification, and found no such admission that Figs. 5 and 6 only show what is old.

In fact, the specification related to Figs. 5 and 6 describes that the tool can be used for tensioning the cable or wire illustrated in Fig. 1, and further or crimping the ferrule illustrated in Figs. 3A-3B onto the cable illustrated in Fig. 1 (see Page 9, lines 12-16). Fig. 5 further illustrates the tool as retaining a cable and a ferrule, and the specification describes (with reference to Figs. 5 and 6) how the tool can be used to crimp the ferrule, and to sever the unused portion of the cable (see Page 9, lines 12-33).

If the objection to the drawings is maintained, Applicant respectfully requests that the Office Action provide a showing that all structure illustrated in Figs. 5-6 is old.

### **II. Amendments to Claims**

Claim 1 has been amended to correct a typographical error. This amendment was not made for reasons related to patentability.

### **III. Claim Rejections Under 35 U.S.C. §103**

Claims 1-10, 12-21, 23-75, 77, 79, and 80 are rejected under 35 USC §103(a) as being unpatentable over Cole in view of Wagner.

Cole is cited as disclosing all elements of independent claims 1 and 75 with the exception of the crimp fitting member having a second portion having a crimp head and a hole in the crimp head that is perpendicular to the crimp shaft that extends longitudinally

from the second portion. Wagner is cited as disclosing those elements not said to be disclosed by Cole.

In particular, the Office Action cites Cole as disclosing a cable 20, a crimp fitting member in the form of a washer (and ferrule) 14, a cannulated screw in the form of a bone opening protector 150, and a reconstruction plate in the form of an eyelet anchor 32 (see Cole at Fig. 10).

However, the Office Action does not cite Cole as disclosing that the eyelet anchor 32 is adapted to receive the cannulated screw (identified in the Office Action as an opening protector 150), or that the cannulated screw is adapted to receive a first portion of the crimp fitting member (identified in the Office Action as a washer/ferrule 14). In fact, Fig. 10 illustrates that the eyelet anchor 32 has an opening that receives an anchoring screw 79 (see Paragraph 110), and not the opening protector 150. Furthermore, the opening protector 150 receives the cable 20 as illustrated at Fig. 10, and is not illustrated as receiving the washer/ferrule 14.

Moreover, the Office Action has not cited Wagner as disclosing structure that cures either deficiency in the Office Action's application of Cole to independent claims 1 and 75.

Rather, the Office Action cites Wagner as disclosing a crimp fitting member having a first portion in the form of a pin 12 having a crimp shaft 44 extending longitudinally from a second portion in the form of structure 45, which defines the bottom of an internal cavity 28 of a connector body 24. The second portion is cited in the Office Action as having a crimp head and a hole 26. The Office Action asserts that one skilled in the art would modify Cole's washer/ferrule 14 to include a crimp fitting member that has a hole perpendicular to the longitudinal axis of the crimp fitting member in view of Wagner.

However, one skilled in the art would not so reconfigure the washer/ferrule 14, because Wagner does not disclose any crimping structure. In fact, Wagner explicitly states disadvantages of using crimps at Col. 2, lines 20-27, and further states that it is "desirable that a cable system be derived that incorporates ... a non-crimping securing mechanism" (see Col. 3, lines 3-5; emphasis added). Wagner therefore explicitly teaches away from using crimps for securing the cable.

Because the cited prior art fails to teach or suggest each limitation of independent claims 1 and 75, withdrawal of the rejection of claims 1-10, 12-21, 23-75, 77, 79, and 80 is respectfully requested.

**IV. Allowable Subject Matter**

Applicant notes with appreciation that claims 15, 27, and 29-44 are identified as containing allowable subject matter. Applicant asserts the patentability of claim 1 as providing sufficient basis for the allowance of claims 15, 27, and 29-44. Formal allowance of claims 15, 27, and 29-44 is respectfully requested.

**V. Conclusion**

Applicant therefore asserts that each objection and rejection to the claims has been overcome, and a notice of allowance is earnestly solicited. The Examiner is hereby authorized to contact the undersigned at the telephone number appearing below if such would advance the prosecution of this application.

No fees are believed to be due for the filing of this correspondence. However, if any fees are deemed due for this or any other communication, the Commissioner is hereby authorized to withdraw such fees from Deposit Account No. 23-3050.

Respectfully submitted,

Date: February 27, 2009

/Adam J. Forman/  
Adam J. Forman  
Registration No. 46,707

Woodcock Washburn LLP  
Cira Centre  
2929 Arch Street, 12th Floor  
Philadelphia, PA 19104-2891  
Telephone: (215) 568-3100  
Facsimile: (215) 568-3439